

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARVELLOUS AFRIKAN WARRIOR,

Petitioner,

v.

CALIFORNIA REPUBLIC,

Respondent.

Case No. 1:22-cv-01639-CDB (HC)

ORDER REQUIRING RESPONSE FROM
PETITIONER

21-DAY DEADLINE

(Doc. 8)

Petitioner Marvellous Afrikan Warrior (“Petitioner”) is a pro se litigant detained in Coalinga State Hospital proceeding with a petition of habeas corpus pursuant to 28 U.S.C. § 2254. (Doc. 1).¹ Petitioner appears to raise certain grievances against the Department of State Hospitals and Department of Corrections, although the precise nature of this complaints is unclear. *See generally* (Doc. 1).

Following its screening of the petition, on June 18, 2024, the Court issued an order requiring Petitioner to file a first amended petition. (Doc. 7). The Court found Petitioner failed to name a proper respondent and to state a cognizable claim for federal habeas relief. *Id.* The Court provided Petitioner 21 days from the date of service of the order to file a first amended petition. *Id.* at 4.

¹ Petitioner is also known as Marcellus Alexander Greene, Sr. (Doc. 1 at 1, 8).

1 On June 26, 2024, Petitioner filed a response to the Court's order. (Doc. 8). The Court
2 construes the filing as a first amended petition. Petitioner names Brandon Price, Executive Director of
3 the Department of State Hospitals ("DSH"), Coalinga, as a respondent in this action. *Id.* at 1.
4 Petitioner asserts Mr. Price is "about [to be] demoted and ousted from DSH not by much longer yet he
5 is not clean from the many wrongs done here." *Id.* The filing otherwise is devoid of any claims, facts
6 or allegations.

7 Pursuant to Rule 4 of the Rules Governing § 2254, the Court conducted a preliminary review
8 of the first amended petition, keeping in mind that pro se habeas corpus petitions are to be liberally
9 construed. *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972). The Court must dismiss a petition "[i]f it
10 plainly appears from the petition...that the petitioner is not entitled to relief." Habeas Rule 4; *see also*
11 *Hendricks v. Vasquez*, 908 F.2d 490, 491 (9th Cir. 1990) (quoting Habeas Rule 4). Petitioner has
12 identified the appropriate respondent for this action. (Doc. 8). However, Petitioner still fails to state a
13 cognizable claim for federal habeas relief. The basic scope of habeas corpus is prescribed by statute.
14 Title 28 U.S.C. § 2254(a) states:

15 The Supreme Court, a Justice thereof, a circuit judge, or a district court shall entertain an
16 application for a writ of habeas corpus on behalf of a person in custody pursuant to a judgment
17 of a State court only on the ground that he is in custody in violation of the Constitution or laws
or treaties of the United States.

18 *See also* Rule 1 to the Rules Governing Section 2254 Cases in the United States District Court. The
19 Supreme Court has held that "the essence of habeas corpus is an attack by a person in custody upon
20 the legality of that custody..." *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). To succeed in a
21 petition pursuant to 28 U.S.C. § 2254, Petitioner must demonstrate that the adjudication of his claim in
22 state court:

23 (1) resulted in a decision that was contrary to, or involved an unreasonable application of,
24 clearly established Federal law, as determined by the Supreme Court of the United States; or
25 (2) resulted in a decision that was based on an unreasonable determination of the facts in light
of the evidence presented in the State court proceeding.

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27 28 U.S.C. § 2254(d)(1)-(2). "Conclusory allegations which are not supported by a statement of
28 specific facts do not warrant habeas relief." *James v. Borg*, 24 F.3d 20, 26 (9th Cir. 1994); *see*

1 *Blackledge v. Allison*, 431 U.S. 63, 75 n.7 (1977) (in habeas, notice pleading is insufficient, a
2 petitioner must state sufficient facts); *see also* Habeas Rule 2(c) (“the petition shall specify all of the
3 grounds for relief...and shall set forth in summary form the facts supporting each of the grounds thus
4 specified”). Here, Petitioner has not provided any facts that would support a claim for habeas relief.
5 *See* (Docs. 1, 8).

6 Petitioner’s first amended petition for writ of habeas corpus (Doc. 8) is deficient for failing to
7 advance claims that are sufficiently pled. Petitioner shall be granted an opportunity to file a second
8 amended petition identifying all of the grounds for relief and facts that support his claims. If
9 Petitioner decides to file a second amended petition, he is advised that a second amended petition
10 supersedes the first and original petition. *Lacey v. Maricopa Cnty.*, 693 F.3d 896, 927 (9th Cir. 2012).
11 Petitioner’s second amended petition must be “complete in itself without reference to the prior or
12 superseded pleading.” Local Rule 220.

13 **Conclusion and Order**

14 For the above-stated reasons, IT IS HEREBY ORDERED, Petitioner is GRANTED 21 days
15 from the date of service of this order to file a second amended petition as directed by this order.

16 Petitioner is forewarned that failure to timely comply with this order may result in a
17 recommendation that the petition be dismissed pursuant to Local Rule 110.

18 IT IS SO ORDERED.

19 Dated: **June 27, 2024**

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UNITED STATES MAGISTRATE JUDGE